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Executive Registry

THE DIRECTOR OF CENTRAL INTELLIGENCE

WASHINGTON, D. C. 20505

76-6064

XR 75-10627

8 JAN 1976

The Honorable John O. Marsh, Jr.
Counsellor to the President
The White House
Washington, D. C. 20500

Dear Jack:

This letter responds to your request of 7 January for a list of issues relating to the Intelligence Community which the President should address, and drafts of decision memoranda for the President on the question of charters for Intelligence Community elements.

TAB A - Issues for Presidential Consideration Relating to U.S. Foreign Intelligence Activities

(Materials provided include recommendation on all issues identified in the Presidential "decision book," plus several additional issues I consider should be addressed.)

TAB B - Key Resource Management Issues

(Five issues related to the discussion in the OMB Task Group "Draft Report to the President on Organization and Management of the Foreign Intelligence Community," dated 16 December 1975, have been singled out for particular attention.)

TAB C - Central Intelligence Agency Charter

TAB D - National Reconnaissance Office Charter

TAB E - Option 4, Modified - "Collective Management"

(I have included for reference Attachment A of my response of 18 December 1975 to the Director, OMB, which commented on the 16 December "Draft Report to the President on Organization and Management of the Foreign Intelligence Community.")

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While I do not consider that this is a propitious time to undertake a major restructuring of the Intelligence Community, I recognize that other considerations may outweigh the reasoning I have presented in responses at TAB A. If significant organizational changes are to be considered, however, I invite your attention particularly to the issues and recommendations set forth in TAB B and my earlier comments at TAB E. These describe what I believe would be the most effective and least disruptive changes.

Sincerely,

~~/s/~~ W. E. Colby

W. E. Colby

Enclosures:
as stated

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(8 January 1976)

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ISSUES FOR PRESIDENTIAL CONSIDERATION RELATING
TO U.S. FOREIGN INTELLIGENCE ACTIVITIES

NOTE: The issues are grouped by category, and the list includes, and expands upon, the issues set forth in the Presidential "decision book" prepared for his use in Colorado. Issues from the "decision book" are not listed in the same order as they appear in the book, but are identified by page number reference.

A. FIRST ORDER ISSUES

1. Is this the time for a major reorganization of the Intelligence Community on initiative of the Executive Branch?

DCI Recommendation: No. The issues involved in organization and management of the Community are complex and need much more careful study. A new DCI will shortly take office and both the Secretary of Defense and his Deputy Secretary handling intelligence matters are new appointees. These officials need time to develop their own ideas, to examine the issues and to make their recommendations to the President. Also, any such proposals would have to be taken to the Congress, where consideration in the present atmosphere would pose major problems.

2. If the decision on the above issue is "No", should Executive Branch positions be prepared against the event that the Congressional investigations will result in reorganization proposals?

DCI Recommendation: Yes. Staffing actions should continue concerning reorganization proposals. Issues which do not involve reorganization should be decided and appropriate Executive Branch action taken.

3. What action can the Executive Branch take to aid in restoring confidence in the U.S. Foreign Intelligence Community?

DCI Recommendation: As the first step, issuance of restrictions on the Intelligence Community such as are contained in the draft Executive Order which has been under White House review will contribute to restoration of confidence. Other possible measures are discussed under the issues related to oversight.

B. REORGANIZATION OF THE INTELLIGENCE COMMUNITY

4. Should the charter of the Community institute greater accountability? (Presidential "decision book" Page I-6)

Comment: As it is treated in the President's "decision book" this issue would be better stated as: Is it desirable to move now to streamline the chain of command of the Intelligence Community?

DCI Recommendation: As indicated in the comment on Issue 1, this is not considered a propitious time for a major reorganization of the Intelligence Community. Should the President decide, however, that a reorganization of the Community is to be undertaken this year (and Congress in any case appears to be moving in that direction), there are steps that should be taken to streamline the Community structure. The authorities of the DCI should be made commensurate with his responsibilities and his relationships with the Department of Defense should be clarified. On the other hand, the chain of command for covert action is already quite clear and there is no reason to change it.

5. Should any new charter for the Intelligence Community be primarily statutory or administrative? (Presidential "decision book" Page I-8)

DCI Recommendation: Proposals concerning a Central Intelligence Agency charter and a National Reconnaissance Office charter are at Tabs C and D. As for a charter applicable to the Intelligence Community as a whole, this is presently covered by the National Security Council Intelligence Directives. Any changes resulting from the ongoing investigations and Executive Branch review should be reflected in NSCID No. 1.

6. How should accountable leadership of the Intelligence Community be provided?

Comment: This is phrased in the Presidential "decision book" as follows: "What type of leadership does the Intelligence Community require (both internally and externally) to efficiently provide effective leadership on a timely basis? Which person or persons shall be held accountable for leadership of the Intelligence Community?" (Page III-1)

DCI Recommendation: Leadership must be provided by two persons: the President and his senior U.S. foreign intelligence officer, who must function both as a close adviser to the President and as an Intelligence Community leader with authorities that match his responsibilities. These authorities must include sufficient budgetary authority to make his leadership effective.

7. Should the senior U.S. foreign intelligence officer also be the operating head of the Central Intelligence Agency?

Comment: This issue was not cited as an issue in the Presidential "decision book", but it--and the following three issues--are considered of critical importance in formulating the future structure of the Intelligence Community.

DCI Recommendation: Yes. It is essential that the senior U.S. foreign intelligence officer not be separated from his operating base. If he is to be the intelligence adviser to the President, he must not be separated from the analytical base responsible for the production of national intelligence. While the DCI can be directed to delegate day-to-day management of the CIA to a deputy, he must retain operational and policy control of the Agency or he will become a powerless "adviser" on the White House staff.

8. Should the DCI be a member of the NSC, or an adviser to the NSC?

DCI Recommendation: An adviser to the NSC.

9. Should the DCI be the Chairman of the NSC Intelligence Committee?

DCI Recommendation: No, not as the NSCIC is now constituted.

10. Should the DCI be the Chairman of the 40 Committee (or its equivalent)?

DCI Recommendation: No, he should continue to be a member as at present.

11. What principles should be important to you in developing an overall structure to work with Congress on intelligence matters? (Presidential "decision book" Page II-17)

DCI Recommendation: Because oversight activity must be conducted for the most part outside of the public domain, the oversight committees will feel the need to dig more deeply into matters than would be the case if all the normal mechanisms (press, interest groups, other Members of Congress, etc.) were not blocked from access. At the same time, these committees should not impinge upon constitutional prerogatives not shared with the Congress.

If the committees are to back off from a "fully and currently informed" concept and if the oversight structure is to work, the Executive Branch must be prepared to make a number of concessions beyond the normal Executive Branch/Congressional relationship.

Access to sensitive intelligence sources and methods carries with it a special responsibility. It must not be overlooked that the legislation that established the Joint Committee on Atomic Energy, which is cited as the model for a committee that can keep secrets, provides criminal penalties for the unauthorized release of Restricted Data. A strengthened oversight structure in the Congress would provide an opportunity to close a serious gap in the criminal laws of the United States in regard to protecting intelligence sources and methods.

It should be insisted that the Congress enact and enforce rules designed to ensure responsible Congressional handling of sensitive intelligence information.

The oversight structure should be limited to the minimum needed to do the job and to assure the Nation of Congressional watchfulness over intelligence. This structure should exercise exclusive jurisdiction, and the rules of the Congress should be modified to restrict access to sensitive intelligence information.

Sensitive intelligence information should not be published by Congressional committees at their sole initiative. Any one of a number of formulas for prior consultation that provides an opportunity for the eventual assertion of Executive Privilege would be acceptable.

Any proposals to require prior approval of committees for covert action or other high-risk activities should be rejected. Instead, there should be a direct and special channel through which Congressional committees or their members can make their views known to the President.

12. What mechanism would best provide control over intelligence resources? (Presidential "decision book" Page III-7)

DCI Recommendation: Given the present organization of the Community and the relationships between the DCI and Department of Defense agencies, control over intelligence resources is best exercised through use of an Executive Committee or Committees chaired by the DCI. The present EXCOM arrangement applies only to the National Reconnaissance Program. A better arrangement would be a single senior EXCOM for all national collection programs. Short of this, there should be an additional EXCOM charged with responsibility for program and resource decisions for the SIGINT program. The use of EXCOMs avoids the need for any basic change in present procedures for budget development and approval within the Department of Defense, which has the bulk of intelligence resources, and still gives the DCI an important role in the programs and budgets for major technical collection systems.

13. Should the collection organizations be consolidated to improve quality, simplify management, and achieve greater cost effectiveness? (Presidential "decision book" Page III-9)

DCI Recommendation: Supervision under an EXCOM arrangement and continuation of actions already under way to improve the statement of requirements for collection will do more to enhance effectiveness of the collection effort than would attempts at consolidation. Diversity of effort is of great value in operations against difficult intelligence targets, and unwarranted duplication can be avoided by actions far less disruptive than consolidation. The separate nature of the technical collection tasks and human source collection efforts is such that greater cost effectiveness could not be expected from consolidation. Merging minor collection activities would not achieve significant economies.

14. Can the production (analysis) capability of the Intelligence Community be improved through "organizational" realignments? (Presidential "decision book" Page III-11)

DCI Recommendation: No. This issue is generally discussed in terms of resource savings resulting from the elimination of duplicative production arrangements. With minor exceptions, the existing alignments reflect the proper national and departmental interests of the members of the Intelligence Community. It is imperative that the DCI provide the President, the National Security Council, and the Congress with authoritative and reliable assessments of foreign events. This capability can be exercised only on the basis of analysis under the immediate control of the DCI and independent of other departments. Moreover, on critical national intelligence questions, competition in analysis is desirable and should be encouraged. The best approach to improving the quality of analysis and production is to provide resources adequate to satisfy the full range of the substantive needs for national intelligence.

C. THE SCOPE AND CONTROL OF COVERT ACTION

15. Do the Community's statutory and administrative charters adequately deal with covert action? (Presidential "decision book" Page I-8)

DCI Recommendation: Yes. The National Security Act of 1947 delegates to the NSC the authority to assign certain action responsibilities related to intelligence. By the NSCID's and the implementing DCID's and Decision Memoranda, particularly NSDM-40, responsibility for the planning, approval, and execution of covert action has been adequately established. The current legislative requirement to brief six Congressional committees on every covert action has proved to be so insecure that it has obstructed effective covert action. This could be remedied by the creation of a new legislative mechanism such as a single joint Congressional committee with exclusive oversight responsibility, at least for CIA.

16. How can adequate deliberation of covert action proposals be assured? (Presidential "decision book" Page II-16)

DCI Recommendation: Such deliberation can be assured by reinstituting regular 40 Committee meetings and by formalizing the process for excepting specific covert action proposals from 40 Committee jurisdiction in those rare cases when it may be deemed advisable. In addition to the formal 40 Committee deliberation process, there should continue to be informal interdepartmental coordination as well as coordination with Ambassadors or, where appropriate, overseas military commanders. Consultation with and advice from the DDI should also continue to be part of the pre-40 Committee staffing process.

17. Should the covert action capability and possibly all clandestine activity be separated from the CIA? (Presidential "decision book" Page III-13)

DCI Recommendation: No. Separating covert action responsibility from CIA would in no way improve Executive or legislative branch oversight. It could involve duplication and risky inefficiency as covert action invariably involves using many of the same contacts and techniques as clandestine intelligence collection. Responding to the last part of the question, so long as we have a Central Intelligence Agency, clandestine activities abroad constitute a function that should be conducted by that central service. There is an interdependency of analysis and clandestine collection. The former benefits from propinquity with the collection effort in evaluating the product, while the collector needs guidance from the analyst in determining priorities.

D. THE NEED FOR STATUTORY OR ADMINISTRATIVE RESTRICTIONS ON INTELLIGENCE ACTIVITIES

18. Should the jurisdictional arrangements between the CIA and the FBI be revised? (Presidential "decision book" Page II-I)

DCI Recommendation: No. The 1966 Letter of Agreement between the two agencies is a clear basis for effective relations between the CIA and the FBI. The pending NSCID No. 9 and Executive Order on Domestic Activities, which are both consistent with the 1966 agreement, spell out in greater detail some of the relationships in a useful manner. NSCID No. 9 would establish the authority for CIA operations within the United States and affecting U.S. citizens abroad, would impose restrictions thereon, and would set forth distinct lines of authority and coordination procedures between the CIA and the FBI and other U.S. departments and agencies as appropriate. CIA's collection responsibility is and should continue to be restricted to foreign intelligence.

19. What substantive restrictions should be placed on intelligence activities other than the FBI? (Presidential "decision book" Page II-6)

DCI Recommendation: The provisions of the Executive Order now in preparation, which will prohibit or limit the activities of intelligence agencies other than the FBI, adequately cover this issue. Because some of the listed restrictions will be directed at activities that are essential to a law enforcement agency, limitations on activities of the FBI will be handled separately. The restrictions on intelligence agencies will limit: activities directed at United States citizens; activities that may be conducted within the United States; electronic surveillance; examination of United States mail; access to Federal income tax returns; secret infiltration of organizations of U.S. citizens; human drug experimentation; participation in or support of law enforcement activities; and assignment of intelligence agency personnel to other Government agencies.

20. Should there be exceptions to restrictions on the activities of intelligence agencies permitting them to engage in certain activities directed at United States citizens?

Comment: The question above combines two issues from the Presidential "decision book."

a. "Whether to include an exception which would allow the collection, analysis and dissemination of information on the domestic activities of U.S. citizens reasonably believed to be involved in international terrorist or narcotics activities or working in collaboration with a foreign nation or organization, but only if collected abroad or from foreign sources." (Page II-8)

b. "Whether to adopt an exception which would permit sharing of information on domestic activities of U.S. citizens among intelligence agencies or other Federal agencies under guidelines of the Attorney General." (Page II-10)

DCI Recommendation: Yes. For example, intelligence agencies should be permitted to collect, analyze, and disseminate information on the domestic activities of U.S. citizens reasonably believed to be involved in international terrorist or narcotics activities or working secretly in collaboration with a foreign nation or organization, provided such information is collected abroad or from foreign sources. They should also be permitted to share information on the domestic activities of U.S. citizens with other Federal agencies properly concerned with such activities, but only under guidelines to be issued by the Attorney General.

E. THE NEED TO DEFINE SYSTEMS OF OVERSIGHT--EXECUTIVE, LEGISLATIVE AND PUBLIC

21. Should a new Congressional/Executive relationship provide for greater Executive Branch accountability to Congress? (Presidential "decision book" Page I-11)

DCI Recommendation: Yes. Such accountability is an essential ingredient of restoring public confidence. The Executive must work to establish relationships with committees that have exclusive oversight and that can operate under effective rules to ensure the responsible handling of sensitive information. If members of such committees are to operate in a credible fashion as surrogates for others, they must receive, on a voluntary basis, sensitive information that is not available to the press, interest groups, or other Members of Congress.

22. Is oversight within the Intelligence Community adequate and effective? (Presidential "decision book" Page II-12)

DCI Recommendation: Oversight within the Community is being enhanced by upgrading the role of Inspectors General in various elements of the Community and by giving greater attention to Inspector General activities. A Community-wide Inspector General would require additional authority to be vested in the DCI. Current efforts of the Congress and the changed attitude within the Executive Branch will provide more than enough oversight for the Community. The problem of the future may be to protect the Community from being so over-overseen as to be hamstrung.

23. Does effective oversight call for a mechanism outside the Intelligence Community to advise the President on propriety? (Presidential "decision book" Page II-13)

DCI Recommendation: No. The proposed Executive Order on restrictions applicable to the Intelligence Community or some similar Congressional legislation would provide the framework for effective action within the Intelligence Community, including clear provision for reporting to the Attorney General on any instances of impropriety.

24. Would public confidence in Executive oversight be enhanced by use of non-Government overseers? Should an outside advisory board be given intelligence oversight responsibilities and, if so, should it be the PFIAB? (Presidential "decision book" Page II-15)

DCI Recommendation: No. While a group of non-Government overseers might serve some cosmetic purpose, no truly practical role is seen. The PFIAB, in particular, should not be put in an Inspector General role. In view of the expected continuing Congressional interest in oversight and the strengthened role of Inspectors General in Intelligence Community agencies, public oversight is not considered either necessary or desirable.

25. What should be your substantive position concerning intelligence oversight committees? (Presidential "decision book" Page II-21)

DCI Recommendation: In principle, it is up to the Congress to put its house in order, but in so doing, it should recognize that Executive as well as legislative prerogatives are involved.

It does not take six committees of Congress to exercise oversight of CIA. The proliferation of sensitive information must stop and the number of committees involved should be reduced.

The nation should not be required to rely exclusively upon the wisdom and restraint of individual Members to protect sensitive intelligence information provided to the Congress. The rules of Congress should make it clear that access to especially sensitive matters will be restricted to the agreed upon committee structure and should provide explicit sanctions for violation of the rules.

(See response to Issue 11 for additional points.)

26. In what manner should the intelligence budget be displayed to Congress? (Presidential "decision book" Page II-22)

DCI Recommendation: The answer to this question depends to a degree on future organizational arrangements for the Intelligence Community. If effective authority over the intelligence budget or a major portion of it

were to be consolidated in the DCI, he could be held responsible for displaying and justifying all intelligence costs. If present arrangements are to be maintained, CIA, Defense, and other departments and agencies with intelligence programs will present and display budgets for their programs more or less as at present.

Within the present legal framework, a decision could be made to submit to the Congress a separate classified annex covering the intelligence budget. This annex would be prepared by OMB concurrently with the Federal Budget and could be made available to the appropriate committees of Congress for their consideration.

There has been some thinking within the Congressional committee staffs about the possibility of having an annual or semi-annual Congressional authorization for intelligence appropriations. The President should not himself make such a proposal. If, however, this idea were combined with the maintenance of a secret appropriations process, some arguments advanced by proponents of an open budget would be effectively met without revealing exact budgetary details. Such a process would, however, have the enormous disadvantage of causing an annual Congressional debate on the size and scope of the intelligence program and offer a ready-made opportunity for passage or restrictive riders on the major issue of the moment.

27. To what extent is public oversight appropriate? (Presidential "decision book" Page II-27)

DCI Recommendation: Public oversight, beyond that expected to be provided by the Congress, is not considered either appropriate or necessary.

F. INTELLIGENCE SUPPORT TO THE CONGRESS

28. What substantive intelligence should be sent to Congress, and what official should be responsible for making such determinations? (Presidential "decision book" Page II-23)

DCI Recommendation: Conclusions reached in the Presidential "decision book" on this subject are concurred in. Specifically, it is believed that:

a. Legislation on this subject would raise serious Constitutional questions.

b. The Executive Branch should give more systematic attention to the growing needs of the Congress for information.

c. The flow of intelligence information to the Congress should be centralized under the DCI.

29. Under what ground rules should the Congress be provided substantive intelligence? (Presidential "decision book" Page II-26)

Comment: In context, this issue appears to refer only to the ground rules under which the Congress can make public substantive intelligence provided to it.

DCI Recommendation: The only acceptable arrangement is that the Executive Branch continue to control the declassification of classified substantive intelligence. This in turn requires Congressional acceptance, collectively and individually, or the Executive's security and classification system, and hence is part of the larger issue of how Congress polices itself. A provision for appeal to the President would not be inconsistent with this position.

G. THE NEED TO REVISE SYSTEMS FOR CLASSIFICATION AND THE PROTECTION OF INTELLIGENCE SOURCES AND METHODS

30. To what extent should the existing classification system be revised? (Presidential "decision book" Page IV-1)

DCI Recommendation: Revision is needed. Classification and declassification standards in the existing Executive Order (E.O. 11652) need clarification and simplification. In addition, the order essentially provides for protecting documents rather than information, which results in a myriad of problems of implementation.

31. If the current classification system is to be revised, should its revision be accomplished by Executive Order or statute? (Presidential "decision book" Page IV-2)

DCI Recommendation: By Executive Order, not by statute. The classification system exists to protect information originating in or coming into the hands of the Executive Branch of the Government, information in the areas (national defense and foreign relations) that under the Constitution are matters within Presidential powers. Conceptually, therefore, the Executive Branch must retain the authority to determine the need for protection of such information and the standards, procedures, etc., for doing so.

32. Should the Administration propose revised legislation to protect classified information? (Presidential "decision book" Page IV-3)

DCI Recommendation: Yes. Additional protection is needed, and although there are draft proposals in S.1 (which would revise the Criminal Code), they have caused considerable controversy and consideration is being given to not pushing these particular provisions. Legislation on the protection of intelligence sources and methods is particularly needed.

33. Whether statutory protection should be accorded only to intelligence sources and methods or to all types of classified information. (Presidential "decision book" Page IV-4)

DCI Recommendation: Statutory protection for intelligence sources and methods is strongly urged. By letter of 31 December 1975 the Department of Justice withdrew all objections to the CIA proposal. Clearly such legislation is necessary in view of the inadequacy of the current law. The present proposal has an excellent chance of passage, but should not be broadened to cover other types of classified information.

34. Whether statutory protection for classified information should cover only Government employees or also the unauthorized recipient. (Presidential "decision book" Page IV-6)

DCI Recommendation: Statutory protection certainly should cover both Government employees and other authorized recipients, such as employees of Government contractors. The draft proposals of S.1 do extend to the unauthorized recipient as well as Government employees, but including the unauthorized recipient is one of the reasons for the controversial nature of the disclosure provisions of S.1. It seems highly unlikely that inclusion of the recipient would be acceptable to the Congress.

35. What form of statutory protection should be given to classified information (i.e., criminal or civil, or both)? (Presidential "decision book" Page IV-6)

DCI Recommendation: As to classified information generally, there should be both criminal and civil injunctive provisions in law. Clearly, additional criminal sanctions are necessary because of inadequate current laws. The civil injunctive provision can in certain cases prevent disclosure rather than having criminal action taken after the damage has been done.

There should be statutory protection for intelligence sources and methods and it should include both criminal and civil injunctive provisions. Today there are no criminal sanctions for unauthorized disclosure. While the 4th Judicial Circuit has approved an injunction to protect classified information, including intelligence sources and methods, it is quite possible that no other circuit would see fit to grant injunctive relief. Both criminal and injunctive provisions are in the proposed CIA legislation.

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Approved For Release 2005/06/08 : CIA-RDP79M00467A001300170019-0

Approved For Release 2005/06/08 : CIA-RDP79M00467A001300170019-0

KEY RESOURCE MANAGEMENT ISSUES

Issue 1: Should the role of the DCI be enhanced so as to provide more focused management and control of the Intelligence Community?

DCI Recommendation: Yes. The DCI should chair an NSC Executive Committee, with Deputy Secretaries of State and Defense as members. These officers among them would control all major national intelligence assets and would act as a Board of Directors for the Community. The EXCOM would, in particular, provide policy and resource guidance for the National Security Agency and the National Reconnaissance Office.

Issue 2: Should the major intelligence budgets be appropriated to an Intelligence Community manager for reallocation to individual operating departments, or should his management be limited to the formulation of a recommended foreign intelligence budget?

DCI Recommendation: Neither. Budgets should continue to be appropriated as at present and administered under the guidance of the EXCOM. The DCI as Chairman of EXCOM should formulate a recommended budget.

Issue 3: If he does not have direct budgetary control, should an Intelligence Community manager have any responsibility for approving the NSA and NRO programs and budgets?

DCI Recommendation: Yes. See No. 1 above.

Issue 4: Should an Intelligence Community manager be responsible for oversight and evaluation of all foreign intelligence activities, or should that remain decentralized as now?

DCI Recommendation: The DCI now has evaluation responsibilities for national intelligence collection and production activities. He does not have oversight responsibilities in terms of checking on abuses--except for the CIA--nor should he. The DCI should be relieved of any evaluation or budget review responsibilities relating to tactical intelligence.

Issue 5: Should an Intelligence Community manager be responsible for the presentation of the foreign intelligence budget even if he does not directly control it?

DCI Recommendation: Yes. It is quite clear that Congress will expect in the future that someone present an Intelligence Community budget. It makes sense that this should be the DCI, even if his control over major portions of it is minimal.

TAB C

CENTRAL INTELLIGENCE AGENCY CHARTER

1. Should the Agency have a charter?

Yes. Since CIA is an independent Agency a charter is virtually a necessity. The Agency's basic charter is the National Security Act of 1947 which created CIA. Furthermore, there is no question but that the Congress will want to modify the Agency's current statutory charter.

2. What should be included in the charter?

The charter should include: the designation of the director of the Agency and a limited number of senior deputies; the status of the director and his relationship to the President or any subordinate official having authority over him; the director's authority over or relationship to other elements of the intelligence community; the duties, authorities and responsibilities of the director and the Agency and specific provision for designation of other duties, authorities and responsibilities by administrative action; activities prohibited or restricted; general and specific exemptions from the provisions of statutes, Executive orders and regulations which would impinge upon the authorities of the director or the ability of the Agency to effectively carry out its charter responsibilities; manner of appropriation and expenditure of funds and specific authority on employment and termination of personnel.

3. Should the charter be a statute or an Executive order?

The charter should be a mixture of statute and Executive order or Presidential directive. The Congress probably will insist on a good part of the Agency's charter being clearly defined in law. In addition, however, as with many statutes some flexibility is desirable and this will assist the President in modifying the Agency's charter from time to time within the framework of the statute as there are new developments and circumstances. In addition, there are certain classified aspects which can only be dealt with by Presidential directive due to subject matter and the details necessarily involved in certain sensitive matters.

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TAB D

NATIONAL RECONNAISSANCE OFFICE CHARTER

1. Should the NRO have a charter?

Yes. Satellite reconnaissance of foreign activities is essential to meet Intelligence Community needs at the national level. An organization is required to manage the necessary effort and a comprehensive charter is essential to define, authorize, and establish that organization.

2. What should be included in the charter?

The charter should define the supervision under which the national office is established, the responsibility and authority of that national office, and its relationships to the Department of Defense and the Central Intelligence Agency.

The NRO charter should enable the organization to implement responses to both national and tactical intelligence requirements. The charter should provide for the development and operation of satellite collection systems which deliver the necessary product to the exploitation, analytical, tactical and field command elements in the most responsive manner and with appropriate security provisions.

The authority of the NRO should include:

- a. Establishment of its necessary management structure;
- b. Definition of the required budgetary support;
- c. Development and operation of the satellite systems;
- d. Technology support for future efforts.

3. Should the charter be a statute or an Executive Order?

The need for flexibility as new requirements for satellite reconnaissance emerge (as is currently the case with direct military support requirements) dictate that the charter be established through Executive Order rather than statute.

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TAB E

ATTACHMENT A

Option 4, Modified - "Collective Management"

RATIONALE

This Option starts from the premise that stronger management of the Intelligence Community is highly desirable, but that the balance of interests reflected in the present structure is a realistic one and should be maintained. It presents a concept for achieving a degree of collective management while preserving present organizational relationships. It requires a minimum of legislative change.

SUMMARY DESCRIPTION

The DCI would continue to be advisor to the President, coordinator of the Community, and Director of CIA. The present structure of Committees and Boards would be consolidated into two, both chaired by the DCI: an Executive Committee of the NSC for Intelligence at the deputy secretary level, responsible for all Community management and policy matters, and a National Intelligence Board at the present USIB Principals level, responsible for substantive production. To enable the DCI to give more attention to his Community responsibilities he would be provided with a second deputy.

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PRIMARY CHANGES AND EFFECTS

The DCI's Responsibilities

The DCI would be the President's chief intelligence advisor, and would remain Director of CIA. With a view to raising the stature of the job, consideration should be given to granting him Cabinet rank. He would be responsible, under the NSC, for the coordination of national intelligence policy and for the production of national intelligence. A clear distinction would be made, however, between his Community and CIA roles.

To this end, he would be provided with an additional Deputy, appointed by the President and confirmed by Congress. The present Deputy would be specifically responsible for managing the Agency under the DCI; the other Deputy would be responsible under the DCI for coordination of the Community. The DCI would have an Agency office at Langley and a Community office downtown, where his Community Deputy would be located.

Coordination of National Intelligence

The present structure of boards and committees would be rationalized, on the basic principle that policy and resource matters requiring a balancing of departmental interests would be considered collectively by the senior officers controlling the assets and resources concerned. A separate forum would be provided for substantive intelligence issues, on the grounds that these are inappropriate for policy officers to adjudicate and that departmental interests are protected by the right of dissent.

Policy and Resources

For the first of these purposes the DCI would chair an NSC Executive Committee for Intelligence, with Deputy Secretaries of State and Defense as members. The committee would have under control of its members all important intelligence assets, and would act as a board of directors for national intelligence. EXCOM(I) would absorb the functions of NSCIC, EX-11 (NRO plus equivalent responsibilities for NSA), INAC, and USIB (except national intelligence production). It would in addition coordinate policy matters affecting State and the Community, such as cover, technical collection bases overseas, and intelligence agreements with foreign countries.

The DCI's Community Deputy would be his alternate in EXCOM(I) but would not serve as Chairman in his absence. The IC Staff would be the secretariat of EXCOM(I). The DCI would carry out his existing responsibilities for the NFIP (less its tactical and departmental components) with the assistance of the Committee. EXCOM(I) would have approval authority for the NFIP (CIAP, NRP, CCP, and some elements of the GDIP) and its decisions would be binding. The DCI would have administrative and resource authority only over CIA. Present administrative arrangements for the NRP and CCP would be preserved.

Production of National Intelligence

USIB would be reconstituted as a National Intelligence Board, limited by charter to substantive matters, and advisory to the DCI. The NIO's would act as the DCI's staff for the NIB. The Board would be chaired by the DCI, with his Agency Deputy as CIA member. The latter would serve as Chairman in his absence.

Covert Action

The DCI would be a member of the 40 Committee, but not its Chairman, with his Agency Deputy as alternate. Clandestine collection and covert action would remain assigned to CIA, without change in present arrangements.

Oversight

Without administrative authority over the Community, it would be inappropriate for the DCI to have an IG responsibility except over CIA. This Option assumes Executive oversight at the NSC or White House level.

Congress

The DCI would continue to be the Community spokesman to Congress.

National/Tactical Problems

EXCOM(I) would handle matters relating to the relationship between tactical and national intelligence. The DCI would have no responsibility for the tactical intelligence budgets of the military services.

OPTION IV MODIFIED

